NOTICES OF NEW BOOKS.

The Law of Commandatory and Limited Partnership in the United States; by Francis J. Troubat, of the Philadelphia Bar. Philadelphia, Kay & Brother, 1853.

Limited partnership has no place in the English customary Law Merchant; and though it has been borrowed from the French commercial code by most of the American States, it has been incumbered with so many common law conceits as to deprive it of the greater part of its value, and make it neither fish nor flesh, but "a sort of not of the newest Poor John." Happy had it been if, instead of providing the machinery to give effect to the principle, the Legislature had hit on the plan suggested by Mr. Troubat, of declaring that the law of partnership, with a limited liability, as authorized in France by its commercial code, should be the law of this State. We should then have had to deal with a few elementary articles, with their interpretation unfettered by the iron rule of statutory details. But would not the adoption of a foreign law have been legislation in the dark? To be sure it would. No unprofessional member had ever heard of the Code Napoleon—or, as it is now called, the Five Codes—or that the Commercial Code was part of it; nor is it probable that any lawyer, in either house, had read it. They borrowed their statute from legislators in New York, who had themselves gone in blind. But what can a popular body do in the construction of a system, or any part of it? The first Napoleon, whose proud declaration it was, in regard to his greatest achievement, "I shall go down to posterity with the code in my hand," brought to the creation of it the learning and experience of the most skilful and eminent jurists in his empire. They proceeded slowly, deliberately, cautiously, efficiently, and safely; and what was the result? An outline of principles to be filled up by the courts charged with the execution of them. Here there was at hand all that was wanted; but the American legislators, depending on inspiration during the three readings, hashed it, seasoned it, and cooked it to please their own palates.

Of all legal mechanism, statutory mechanism is the most imperfect; and this is one of the strongest objections to American codification. It is always adapted to the circumstances of a single case in the mind's eye of the constructor; and when it is required to work on any other, it works badly or not at all. A legislator who has but one model, is like a shoemaker who has but one last. It is this propensity to generalize that leads to perpetual tinkering at the statutes, till they are, at last, a wretched

piece of unintelligible patchwork. This would be prevented by not attempting to do too much, and leaving the rest to the courts.

The writer of this article is not a champion of the civil law; nor does he profess to have more than a superficial knowledge of it. He was bred in the school of Littleton and Coke, and he would be sorry to see any but common law doctrines taught in it. Water and oil would as readily coalesce, as the technicalities of our law of real property and the simplicity of the Roman law. The principles of the latter required adaptation to the English law of contracts and personal property; but it cannot be denied that, when they were adapted to it, they enriched it. In France, Italy, Germany, Spain, and Scotland, where the Roman law is the basis of the municipal law, it required adaptation to the habitudes of the people; but the English Law Merchant—an imperishable monument of Lord Mansfield's fame—shows what magnificent structures may be raised from it, where the ground is not pre-occupied.

The French law of limited partnership has been eminently beneficial wherever it has been established. When Napoleon was driven from the countries he had incorporated with France, the people clung to his code, in compensation of their sufferings in the wars of the revolution. The same law of limited partnership, pure and unadulterated, would be as beneficial here. The division of capital into shares, or even coupons of shares, of equal value, deliverable to bearer unclogged with legislative conditions and observances, would give activity to torpid wealth, facility to investment, and profitable employment to an increased circulation. Creditors would not be deceived by the limitation of responsibility; for, dealing exclusively with the general partners, they would contract, not on the personal credit of the limited partners, but on the availableness of their part of the capital. If it were not entirely paid in, a chancellor would compel the defaulters to pay their contingents into the hands of a receiver. Above all, such a form of partnership would dispense with every pretext for those pernicious incorporations for industrial purposes, which have proved so disastrous to those who had been so unfortunate as to deal with them. Mr. Troubat shows this satisfactorily; and it is with a view to a liberal interpretation of our own statutes, where there is room for it, that we commend his volume to the bench and the bar, as affording immediate access to the French commercial law. It indicates deep research, great perspicacity, and a familiar acquaintance with the commercial law of continental Europe. It will richly repay a perusal of it.